



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/657,486	09/08/2000	Scott A. Burton	7780.612US01	2827

23552 7590 03/15/2002

MERCHANT & GOULD PC  
P.O. BOX 2903  
MINNEAPOLIS, MN 55402-0903

EXAMINER

HAMILTON, LALITA M

ART UNIT	PAPER NUMBER
----------	--------------

3764

DATE MAILED: 03/15/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/657,486

Applicant(s)

BURTON, SCOTT A.

Examiner

Lalita M Hamilton

Art Unit

3764

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-55 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-55 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s): 6
- 4) ☐ Interview Summary (PTO-413) Paper No(s): \_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 52 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claim is rejected for not having the Markush group in proper format (i.e. "selected from the group consisting A, B, and C").

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-11, 13-20, 22-34, and 36-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chen ('570).

Chen discloses an absorbent dressing that may have a multilayer construction and including a variety of dressing constructions known in the art (col.5, lines 24-35). It is inherent that the second absorbent layer may be less absorbent than the first layer, since "the second absorbent layer may contain that same components as the first absorbent layer, but may have an acrylic or methacrylic acid esters and is more tacky". Chen discloses a range of parts by weight of the acrylic or methacrylic acid esters (col.1, lines 34-40 and 50-55). It is well known in the art to provide a dressing that is

Art Unit: 3764

cutable. Absent a teaching as to the criticality of the ranges of the thickness of the first and second absorbent layers, this particular arrangement is deemed to have been known by those skilled in the art since the instant specification and evidence of record fail to attribute any significance (novel or unexpected results) to a particular arrangement. In re Kuhle, 526 F.2d553, 555, 188 USPQ 7, 9, (CCPA 1975). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide a second layer that is less absorbent than the first layer to provide a barrier between the first absorbent layer and the wound, provide a cutable dressing to allow the user to size it as desired, and to provide varying ranges for the thickness of the first and second absorbent layers to provide the desired absorption capabilities.

Claims 12 and 53-55 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chen in view of Dahmen ('557).

Chen discloses the invention substantially as claimed; however, Chen does not disclose N-vinyl acetamide. Dahmen teaches a polymer for absorbing liquids comprising N-vinyl acetamide (col.3, lines 25-30). It would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate N-vinyl acetamide as an alternative polar, ethylenically unsaturated monomer.

Claims 21, 35, and 42-44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chen in view of Gilbert ('150).

Chen discloses the invention substantially as claimed; however, Chen does not disclose a perforated wound facing layer. Gilbert teaches an absorbent dressing having a perforated wound facing layer (col.2, lines 60-68) with a void area of between 1 and

Art Unit: 3764

20%. It would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate perforations in the wound facing layer to provide the desired rate of fluid absorption and maximal strength.

Claims 45-52 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chen in view of D'Haese ('111).

Chen discloses the invention substantially as claimed; however, Chen does not disclose a less than 50% of the carboxylic acid monomer neutralized. D'Haese teaches a water dispersible pressure sensitive adhesive having less than 50% of the carboxylic acid monomer neutralized (col.4, lines 40-50). It would have been obvious to one having ordinary skill in the art at the time the invention was made to neutralize less than 50% of the carboxylic acid monomer to produce a clear monomer solution without the addition of a large amount of water.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Therriault ('247) and Cole ('698) teach pressure sensitive adhesive films comprising hydrophilic polymer blends.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lalita M Hamilton whose telephone number is (703) 306-5715. The examiner can normally be reached on Tuesday-Thursday (8:30-4:30).

The fax phone numbers for the organization where this application or proceeding is assigned are (703) 306-4520 for regular communications and (703) 306-4520 for After Final communications.

Application/Control Number: 09/657,486

Page 5

Art Unit: 3764

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-

2272

  
LMH

March 9, 2002



**DENISE M. POTHIER  
PRIMARY EXAMINER**